**State of New Jersey**
**Department of Environmental Protection and Energy**
Division of Responsible Party Site Remediation
CN 028
Trenton, NJ 08625-0028

Scott A. Weiner
*Commissioner*

Karl J. Delaney
*Director*

MAR 01 1993

Richard Puvogel, Project Manager
United States Environmental Protection Agency
Emergency and Remedial Response Division
26 Federal Plaza
New York, New York 10278

Dear Mr. Puvogel:

Re: Berry's Creek Drainage Basin
Remedial Investigation/Feasibility Study

As we discussed in the December 23, 1992 coordination meeting and via conference call on February 3, 1993, enclosed please find a description of the New Jersey Department of Environmental Protection and Energy's (Department) strategy for the implementation of a Remedial Investigation/Feasibility Study in the Berry's Creek Drainage Basin. After the United States Environmental Protection Agency (USEPA) has reviewed this correspondence, please contact me with any comments.

The Department's generic approach to the investigation of the Berry's Creek Drainage Basin is outlined in letters dated January 16 and December 18, 1992, from Lance Miller, Assistant Commissioner of the Department's Site Remediation Program, to Kathleen Callahan, Director of USEPA's Emergency and Remedial Response Division. To summarize the strategy, USEPA contractors are currently conducting an investigation of parties which are responsible for the contamination of the Berry's Creek Drainage Basin. Once these parties have been identified, the Department will initiate an enforcement action pursuant to the Spill Compensation and Control Act requiring these responsible parties to perform a Remedial Investigation/Feasibility Study of the Berry's Creek Drainage Basin. The Department would also negotiate and sign an Administrative Consent Order with these parties to ensure that they conduct the RI/FS in a proper and timely fashion, with Department oversight.

The technical approach to the Berry's Creek Drainage Basin RI/FS has been refined through recent inter-Department meetings to ensure that a feasible and efficient investigation will be performed by the responsible parties, while incorporating or responding to USEPA's past comments on the approach. The Department agrees with USEPA, in that the first stage of this investigation should be the performance of a comprehensive literature search. As there has been a significant amount of technical and research work performed in the Berry's Creek Drainage Basin, it would be best to compile this information to indicate

which areas of Berry's Creek suffer from 'data gaps' and which areas do not. The Department recognizes that the age of the data directly effects its validity, so the use of older data may be limited in defining these data gaps.

Another activity which can progress at the same time as the literature search is an ecological survey of the Berry's Creek Drainage Basin to indicate which portions of the creek are most ecologically sensitive and, therefore, more susceptible to threats posed by contamination in Berry's Creek. The literature search and the ecological survey would be performed as a Preliminary Assessment.

With regard to the Remedial Investigation, the Department would require that the initial phase of the Remedial Investigation be focused on: 1) areas of the creek where there are known data gaps; 2) ecologically sensitive areas; and 3) known sources of Creek contamination identified through the responsible party investigation. By focusing the initial phase of the Remedial Investigation in this fashion, the Department will concentrate the investigation on those areas where remedial action will most likely be necessary, rather than requiring the responsible parties to collect unnecessary samples to no advantage.

The overall Remedial Investigation would be focused primarily on surface water, sediments and sediment/soil in tidally affected marshes. Apart from a limited assessment of regional/background ground water quality, no comprehensive delineation of ground water contamination will be conducted through this investigation. The Department believes that it would be more effective to investigate ground water contamination from the individual sites in the drainage basin, many of which are active within the Department, rather than attempt to perform a massive ground water investigation.

The Remedial Investigation would focus on all tidally affected areas of the creek, starting at the high water lines of the individual sites, although the investigation area may be expanded to include non-tidal upstream areas which pose a source of contamination to the downstream tidal areas. Based on the constant redistribution of contaminants through tidal activity, the Department cannot foresee any other technically feasible approach. Relative to this point, the Department does not agree with USEPA's proposed approach of starting individual investigations in the separate creek channels and then joining in the main channel of Berry's Creek at some later date. The Department's three main concerns about this approach are as follows: 1) this establishes a 'piece meal' (ie non-comprehensive) approach of the type that the Department is trying to avoid; 2) management of these investigations would be more difficult than conducting one investigation; and 3) the Department cannot logically define the point where the individual investigations end and the main creek channel investigation begins, because of tidal activity throughout the creek and the redistribution of contaminants in these areas.

The initial phase of the Remedial Investigation would incorporate sampling and analysis for all potential contaminants. With the high environmental complexity of Berry's Creek and the wide variety of sources and contaminants, the Department feels that it would be prudent

to assess all potential threats to human health and the environment at this early stage. Only after the initial phase of the Remedial Investigation would the Department be able to evaluate the contaminants in the Berry's Creek Drainage Basin and thereby limit the scope of further investigation to particular contaminants. Subsequent phases of the Remedial Investigation would be dedicated to the delineation of specific contaminants and their sources. The Department shares USEPA's interests in focusing the scope of the investigation, but only after we have assessed all potential contaminants and associated threats to human health and the environment.

Once specific areas of contamination have been delineated, the Department would initiate Feasibility Study(s) of remedial alternatives for those contaminated areas. The Department anticipates a number of Feasibility Studies which would investigate numerous remedial alternatives for the various areas of the Creek which may be contaminated. These Feasibility Studies would be implemented by the responsible parties under the same ACO referenced above, thereby ensuring a coordinated technical approach, although the actual work may proceed on different timeframes.

When remedial alternatives have been defined through the Feasibility Studies, the Department will evaluate the parties responsible for the various contaminants and initiate a separate enforcement action requiring the remediation of these contaminated areas. This will be carried out shortly after the completion of the Feasibility Studies to ensure that the data and remedial alternatives are still accurate.

Specifically with respect to SCP-Carlstadt, the Department would rather have the investigation of Peach Island Creek incorporated into the comprehensive RI/FS of the Berry's Creek Drainage Basin, although if USEPA feels it is necessary to have the responsible parties at the SCP-Carlstadt Site proceed with off-Site investigation immediately, the Department requests that the investigation be incorporated into the comprehensive creek investigation at a later date. The agreement of USEPA on this point is essential to the success of the overall strategy.

If you have any comments or questions, please contact me as soon as possible.

Sincerely,

David W. Paddock

David Paddock, Case Manager
Bureau of State Case Management

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c: Colleen Kokas, Section Chief, BSCM
Joe Freudenberg, Case Manager, BFCM
Steve MacGregor, Technical Coordinator, BEERA
Ed Demarest, Ecologist, ETRA
Pat Evangelista, Project Manager, USEPA (SCP - Carlstadt)